IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 23RD NOVEMBER 2006 / 2ND AGRAHAYANA 1928

Crl.MC.No. 3811 of 2006()

CC.956/2005 of JUDL.MAGISTRATE OF FIRST CLASS, ETTUMANUR

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PETITIONER:

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1. JAMES JOSEPH, KUTTIYAMKONATH,
   P.O.MEVALLUR, KOTTAYAM-686 609.

2. BEENA JAMES, KUTTIYANKONATH, DO.

BY ADV. SRI.V.G.ARUN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA
   ERNAKULAM.

2. SABU K.K., KOTHATTUMALAYIL HOUSE,
   ONAMTHURUTHU, KOTTAYAM.

BY PUBLIC PROSECUTOR SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3811 OF 2006

Dated this the 23rd day of November, 2006

ORDER

In this Crl.M.C. the petitioners pray that the criminal prosecution initiated against them, inter alia, under Secs.468 and 420 read with Sec.34 of the IPC may be quashed. Proceedings were initiated on the basis of a private complaint filed by the de facto complainant before the learned Magistrate which was referred to the police under Sec.156(3) of the Cr.P.C. Final report has been filed. Cognizance has been taken. The petitioners have entered appearance before the learned Magistrate. Charges have not been framed by the learned Magistrate yet. A report of the learned Magistrate was called for and it is reported that the matter stands posted for hearing on the question of charge.

2. I shall carefully avoid any expression of opinion on merits. Suffice it to say that I am of opinion that this is not a fit case where the powers under Sec.482 of the Cr.P.C. can or ought to be invoked. But it is certainly necessary for the learned Magistrate to consider the claim of the petitioners to

be discharged when he considers the question of framing charges at the stage of Sec.239/240 of the Cr.P.C.

3. This Crl.M.C. is, in these circumstances, dismissed; but with the specific observation that the petitioners' plea for discharge must be considered by the learned Magistrate at the stage of Sec.239/240 of the Cr.P.C. expeditiously - at any rate, within a period of two months from the date on which a copy of this order is placed before the learned Magistrate.

4. Issue a copy of this order to the learned counsel for the petitioners forthwith for production before the learned Magistrate.

Sd/-

(R. BASANT, JUDGE)

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//true copy//

P.S. to Judge